

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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April E. Kiel,

Plaintiff,

v.

16-CV-513  
Decision and Order

Nancy A. Berryhill,  
Acting Commissioner of the Social  
Security Administration,

Defendant.

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On June 22, 2016, the plaintiff commenced this action. Docket Item 1.

On January 19, 2017, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(B). Docket Item 10.

On January 19, 2017, the plaintiff moved for judgment on the pleadings, Docket Item 11; and on May 22, 2017, the defendant responded and cross-moved for judgment on the pleadings, Docket Item 18. On April 18, 2018, Judge Scott issued a Report and Recommendation (“R&R”) finding that the defendant’s motion should be granted and that the plaintiff’s motion should be denied. Docket Item 19. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1);

Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to deny the plaintiff's motion and grant the defendant's motion.

For the reasons stated above and in the R&R, the plaintiff's motion for judgment on the pleadings, Docket Item 11, is DENIED; the defendant's motion for judgment on the pleadings, Docket Item 18, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: May 11, 2018  
Buffalo, New York

s/Lawrence J. Vilardo  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE